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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/591,878	09/06/2006	Tony Whittaker	WW/3-22356/A/PCT	4510

324 7590 02/12/2009
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EXAMINER	
HRUSKOCI, PETER A	

ART UNIT	PAPER NUMBER
1797	

MAIL DATE	DELIVERY MODE
02/12/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/591,878	WHITTAKER ET AL.	
	Examiner	Art Unit	
	/Peter A. Hruskoci/	1797	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *06 September 2009 and 04 December 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-19* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-19* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *12/4/06*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Claim 11 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 11 "the polymer" lacks clear antecedent basis.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-13 and 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over McGrow et al. 5,213,693 in view of Batty et al. 5,834,545. McGrow et al. (see col. 2 line 41 through col. 6 line 62) disclose a process of dewatering an aqueous suspension substantially as claimed. It is submitted that the cationic coagulant polymer utilized in McGrow et al. is considered patentably indistinguishable from the first flocculant. The claims differ from McGrow et al. by reciting the second flocculant is mixed with the suspension in the form of a particulate polymer. Batty et al. disclose (see col. 4 line 47 through col. 7 line 20) that it is known in the art to mix a flocculant composition including polymer particles with a suspension, to aid in dewatering the suspension. It would have been obvious to one skilled in the art to modify the process of McGrow et al. by utilizing the recited particulate polymer view of the teachings of Batty et al., to aid in flocculating and dewatering the suspension. The specific particle diameter and second flocculants utilized, would have been an obvious matter of process

optimization to one skilled in the art, depending on the specific sludge treated and results desired, absent a sufficient showing of unexpected results. With regard to claims 15-17, it is submitted that Batty et al. as applied above, appears to teach the use of the recited coating or matrix of silicone or wax.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over McGrow et al. 5,213,693 in view of Batty et al. 5,834,545 as above, and further in view of Sorensen et al. 5,846,433. The claim differs from the references as applied above by reciting the first flocculant comprises particles having a specific diameter. Sorensen et al. disclose (see col. 7 line 3 through col. 8 line 17) that it is known in the art to utilize a flocculant polymer particles having the recited diameter, to aid in dewatering a suspension. It would have been obvious to one skilled in the art to modify the references as applied above by utilizing the recited particles view of the teachings of Sorensen et al., to aid in flocculating and dewatering the suspension. The specific particle diameter utilized, would have been an obvious matter of process optimization to one skilled in the art, depending on the specific sludge treated and results desired, absent a sufficient showing of unexpected results.

Claim 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over McGrow et al. 5,213,693 in view of Batty et al. 5,834,545 as above, and further in view of Ghafoor et al. 6,001,920. The claims differ from the references as applied above by reciting the second flocculant is introduced into the suspension in the form of slurry in a specific liquid. Ghafoor et al. disclose (see col. 1 line 16 through col. 6 line 36) that it is known in the art to utilize polyethylene glycol to aid in stabilizing a polymer coagulant utilized in flocculating sludge suspensions. It would have been obvious to one skilled in the art to modify the references as

applied above, by utilizing the recited slurry in view of the teachings of Ghafoor et al., to aid in flocculating and dewatering the suspension.

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-11, 18, and 19 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-3 and 5-14 of copending Application No. 10/591,776. Although the conflicting claims are not identical, they are not patentably distinct from each other because the process steps recited in the instant claims appear to be fully encompassed by the process steps recited in the claims of the copending application.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to /Peter A. Hruskoci/ whose telephone number is (571) 272-1160. The examiner can normally be reached on Monday through Friday from 8:00AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on (571) 272-1166. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Peter A. Hruskoci/
Primary Examiner
Art Unit 1797

2/10/09